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Tenth emergency special session
Agenda item 5
Illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory

Letter dated 14 January 2009 from the Permanent Representative of Israel to the United Nations addressed to the President of the General Assembly

I refer to the meeting of the tenth emergency special session of the General Assembly, called for 15 January 2009.

I wish to reiterate that the reconvening of the tenth emergency special session represents a violation of the Charter of the United Nations, the mandate of the General Assembly and the established procedures of the United Nations.

The emergency special session will take place as the Security Council is actively addressing the situation in southern Israel and the Gaza Strip. Only last week, the Security Council adopted resolution 1860 (2009), which seeks to promote an end to the current violence. According to resolution 1860 (2009), the Security Council remains seized upon the matter, and indeed, the Security Council held consultations on this issue yesterday, 13 January 2009.

At this very moment, the Secretary-General is visiting the Middle East, including Israel, with the endorsement of the Security Council, in order to facilitate a solution to the conflict.

This flurry of diplomatic activity reflects the ongoing and important work of the Security Council on the matter at hand. According to Article 12 (1) of the United Nations Charter, "While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests".

Furthermore, I am confident that you are well aware that, according to General Assembly resolution 377 (r), emergency special sessions of the General Assembly are designed to act only when the Security Council "fails to exercise its primary responsibility for the maintenance of international peace and security". This fundamental prerequisite is applicable to the reconvening of the tenth emergency

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special session as highlighted in the jurisprudence of the International Court of Justice.[1]

Given that the Security Council remains deeply engaged in this matter, it is beyond the mandate of the President of the General Assembly to convene such a meeting.

In addition, the tenth emergency special session was initiated due to the inability of the Security Council to take action on the issue of settlements. However, the current situation is entirely removed from this subject matter. In fact, Israel dismantled every one of its settlements, and removed every one of the 8,000 Israelis living in the Gaza Strip in 2005.

Given these aforementioned facts, Israel once again demands the cancellation of tomorrow's meeting.

I should be grateful if you would have the present letter distributed as a document of the General Assembly.

(*Signed*) Gabriela **Shalev**
Ambassador
Permanent Representative

[1] *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, para. 31.